

Declaratory Res. # 630-1929
For the opening and
extending of Berry St. from
Monroe St. to Francis St.
adopted: November 7, 1929

Notice to Prop. Owners: Nov 15 & 22, 1929

Restraining Order filed by
Court Dec 5, 1929 until Dec 16,
1929

ALL ACTION RESOINDED

September 5, 1950

DECLARATORY RESOLUTION NO. 630-1929.

For the opening and extending of Berry Street from Monroe Street to Francis Street.

Resolved by the Board of Public Works of the City of Fort Wayne, Indiana, that it is desired and deemed necessary to open and extend Berry Street from Monroe Street to Francis Street to a width of thirty (30) feet.

All as shown by a plan of such proposed opening and extending of Berry Street now on file in the office of the Department of Public Works of said City.

Said opening and extending as above described to be made by condemning and appropriating for street purposes the following described tracts of land:

A strip of land lying south of a line that is thirty (30) feet north of and parallel to the now existing north line of Moran's Subdivision of Lots Numbered 24, 25, 26 and 27 Taber's Addition and Taylor's Subdivision of Lots Numbered 387 and 386 Hanna's Addition, and said line thirty (30) feet north of said subdivisions produced northwest to the west line of Monroe Street produced north, and the said line produced southeast to the east line of Hanna Street produced north; also the north sixteen (16) feet of Lots Numbered 371, 370, 369, 368 and 367 Hanna's Addition as now existing; also the north thirty (30) feet (at right angles to the south line of said Railroad Company's property) of Lots Numbered 372, 373 and 374 Hanna's Addition as now existing.

The property which may be injuriously or beneficially affected by the proposed opening and extending of Berry Street as above described is described as all lots and parcels of land not occupied by streets and alleys lying south of the alley north of Berry Street and said alley extended east and west from Thieme Drive to the Maumee River and south of the Maumee River from the said alley extended east to Anthony Boulevard; West of Anthony Boulevard; North of the alley south of Erie Street from Anthony Boulevard to the alley west of Francis Street and north of Wayne Street from the alley west of Francis Street to Monroe Street and north of the alley south of Berry Street from Monroe Street to Thieme Drive; and East of Thieme Drive.

All of the above described streets and alleys and lots and lands affected by the above described opening and extending of Berry Street being situated in Sections 1, 2 and 3, Township 30 North, Range 12 East and within the corporate limits of the City of Fort Wayne, Indiana.

Adopted this 17 day of November 1929.

Attest: Agatha E. Dick
Secretary.

Amos Beck
James H. Beck
William S. D. Beck
Board of Public Works.

ALL ACTION REBOINDED
September 5, 1950

MAUMEE RIVER

$\Delta = 72^{\circ}27'$ $T = 86.5$
 $D = 6^{\circ}11'$

TOE OF SLOPE
 TOP OF SLOPE
 & NORTH TRACK
 & SOUTH TRACK

WELLS COAL CO. TRUCK
 & WELLS

MONROE ST.

WAYNE

HANNA ST.

STREET

FRANCIS ST.

MORAN'S

3 SUBS
 TAYLORS

SUB

HANNA'S

ADD.

PLAN OF THE OPENING AND EXTENDING OF
 BERRY STREET

FROM MONROE ST. TO FRANCIS ST.

DATE 7-25-1911

BY J. B. L. L. L.

State of Indiana, Allen County, ss:

(CIRCUIT COURT)

State of Indiana, to the Sheriff of Allen County, Greeting:

You are hereby commanded to summon

City of Fort Wayne

to personally be and appear before the Judge of the Circuit Court of Allen County, on the

16

day

of

Jan Dec

1926

, at the Court House in the City of Fort Wayne, in said County, to answer

to the complaint of

The New York, Chicago & St Louis Railroad Co

action

Injunction

(SEAL)

A TRUE COPY

ALBERT G. EMRICK, Sheriff

Allen County

and of this summons make due return.

Witness, LOUIS C. RIPPE, Clerk of said Court, and the

seal thereof, this

5

day of

Dec

A. D. 1926

LOUIS C. RIPPE, Clerk.

STATE OF INDIANA,
COUNTY OF ALLEN, SS:

IN THE ALLEN CIRCUIT COURT,

1929

THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD COMPANY

VS

CITY OF FORT WAYNE

NOTICE OF APPLICATION FOR TEMPORARY
INJUNCTION

To the CITY OF FORT WAYNE:-

You are hereby notified that on the 16th day of December, 1929, at nine o'clock A.M., of said date, or as soon thereafter as counsel may be heard, at the courthouse in the City of Fort Wayne, in said county and state, in the courtroom of the Allen Circuit Court, this plaintiff will make application to said court for a temporary injunction, restraining you, as defendant in said cause, from confirming Declaratory Resolution No. 630-1929, appropriating the following described real estate in said city, said county and state, to-wit:

A strip of land lying south of a line that is thirty (30) feet north of, and parallel to, the now existing north line of Moran's Sub-Division of lots numbered 24, 25, 26 and 27 Taber's Addition and Taylor's Sub-Division of lots numbered 387 and 386 Hanna's Addition and said line thirty (30) feet north of said sub-division produced northwest to the west line of Monroe Street produced north, and the said line produced southeast to the east line of Hanna Street produced north.

and from in any manner going forward or proceeding with said resolution to appropriate said strip of ground hereinbefore described.

Townsend Thomas K. Kilgus
Attorneys for Plaintiff.



STATE OF INDIANA,
COUNTY OF ALLEN, SS:

IN THE ALLEN CIRCUIT COURT,

1988

THE NEW YORK, CHICAGO & ST.
LOUIS RAILROAD COMPANY

VS

CITY OF FORT WAYNE

RESTRAINING ORDER

Comes now the plaintiff in the above entitled cause and files its verified complaint herein, praying for a restraining order, which said verified complaint is in words and figures following, to-wit: (H.I.) And the said plaintiff having filed its undertaking, to the approval of the Judge of this court, and which said undertaking is in words and figures as follows, to-wit: (H.I.) And this proceeding being submitted on the verified complaint and on such application for a restraining order, and the court being duly advised in the premises, finds for the plaintiff, and finds that the plaintiff is entitled to a restraining order, as therein prayed for.

It is, therefore, ordered and considered by the court that said defendant be, and it is hereby, restrained from confirming Declaratory Resolution No. 630-1929, as proposed by the Board of Public Works on the 12th day of November, 1929, and said city is restrained from appropriating the property of the said plaintiff in said city, said county and state, to-wit:

A strip of land lying south of a line that is thirty (30) feet north of, and parallel to, the now existing north line

of Moran's Sub-Division of lots numbered 24, 25, 26 and 27 Taber's Addition and Taylor's Sub-Division of lots numbered 387 and 386 Hanna's Addition and said line thirty (30) feet north of said sub-division produced northwest to the west line of Monroe Street produced north, and the said line produced southeast to the east line of Hanna Street produced north.

and from proceeding further in acting upon said resolution until notice and further order of this court.

It is further ordered that the defendant be notified that an application for a temporary injunction will be heard herein before me in the Circuit Court Room of the Allen Circuit Court in the City of Fort Wayne, in said county and state, on the 16th day of December, 1929, at nine o'clock A.M., or as soon thereafter as counsel may be heard.

It is further ordered that there issue to the Sheriff of said county a certified copy of this order, and that he be, and is hereby, directed to serve the same forthwith and make due return thereof.

Les A. Wood

Judge of the Allen Circuit Court

Dated this 5th day of December, 1929.

order book entry.

STATE OF INDIANA
SS:
ALLEN COUNTY

I, Louis C. Rippe, Clerk of the Allen Circuit Court in and for said County and State hereby certify that the above and foregoing is a true and perfect copy of the order book entry as the same appears and remains of record in my office.

In Testimony Whereof I hereunto subscribed my name and affixed the seal of said court this the 5th day of December A.D., 1929

Louis C. Rippe
Clerk Allen County.

Filed: Dec. 4 - at 2:40 P.M.

December 2nd, 1929

To the Hon. Board of Public Works,
City Hall,
Fort Wayne, Indiana.

Gentlemen:

The undersigned, owners of property affected by the proposed opening and extending of Berry Street from Monroe Street to Francis Street, as proposed under Declaratory Resolution Number 630, adopted by your Board on the 7th day of November, 1929, remonstrates against such proposed opening and extending of Berry Street between the above mentioned points, for the following reasons, viz:-

1. The opening, as set forth in Declaratory Resolution #630 and shown on the plan attached thereto and made a part thereof, contemplates the establishment of a thoroughfare but 30 feet in width; that the project, therefore, is entirely lacking as a public utility.
2. The proposed width, 30 feet, would, should your Board confirm such resolution, establish and constitute a public nuisance, prove itself not only detrimental, but hazardous, certainly in no event beneficial.
3. The damage to the industrial plant owned and operated by the undersigned, would be enormous, rendering the cost of such opening and extension by reason of such damages to be sustained, prohibitive.

Peter A. Moran Ice Co.
by Frank R. Callahan, Sole
Owner.
Frank R. Callahan.

BOARD OF PUBLIC WORKS
City Hall
Fort Wayne, Ind.

DECLARATORY RESOLUTION
NO. 630

REMONSTRANCE

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at 2:40 P.M.

December 2nd, 1929

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